

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1318 OF 2006

Kishan Kumar Kedia & Ors.	.. Petitioners.
Vs.	
Smt.Shushiladevi M.Kedia	.. Respondent.

Mr.H.R.Sharma for the petitioners.
Mr.V.P.Sawant i/b M/s.Shah & Sanghavi for the
respondent.

**CORAM : D.B.BHOSALE, J.
DATED : 4TH SEPTEMBER, 2006**

P.C.:

1. Heard learned counsel for the petitioners and the respondent.

2. By this writ petition, the petitioners have impugned the order by which the prayer for recalling the witness for production of three documents, referred to in paragraph 3 of the impugned order, on record has been rejected. That prayer was made on the ground that through oversight the said documents remained to be produced on record. The said application was made at the stage when the arguments of the respondent-plaintiff were being advanced. Mr.Sharma, learned counsel for the petitioners submitted that the litigant cannot be made to suffer for the lapse of an advocate. In support of his contentions he placed reliance on the judgment of this Court in **Steelage Industries Ltd. and Anr. Vs. Smt.Chander Bagai AIR 1992 Bombay 406** and the judgment

of Rajasthan High Court in **Jodhpur Gums & Chemicals Pvt. Ltd. Vs. Punjab National Bank and Others AIR 1999 Rajasthan 38**. It appears that the averments in respect of the documents which the petitioners desire to produce on record were made in the pleadings and they were also referred to in the evidence, still he chose not to file them on record till the evidence of both the sides was closed. Insofar as the contention of the learned counsel for the petitioner that for the lapse of the advocate the litigant cannot be made to suffer is concerned no where in the petition or application (Exhibit-E) the petitioner has put blame on the advocate. It cannot be said that either the advocate or the petitioner lost sight of those documents in the course of trial. Those documents were referred to in the evidence. It appears that after the evidence of the other side was closed the petitioners realised their mistake and hence have filed application to fill up the lacuna. I perused the order passed on the application and in particular paragraph 8 thereof. To my mind the Court has rightly rejected the application for the reasons recorded in the impugned order. I find no reason to interfere with the order by exercising writ jurisdiction under Article 227 of the Constitution of India. The order impugned is just and proper and deserves no interference. The writ petition is, accordingly, dismissed.

(D.B.Bhosale, J.)